

December 6, 2018

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service*, WT Docket No. 08-7

Dear Ms. Dortch,

On December 4, 2018, Sanford Reback, Vice President, Global Public Policy and Government Affairs of Twilio Inc. ("Twilio") and I met separately with Jamie Susskind, Chief of Staff to Commissioner Carr; Erin McGrath, Legal Advisor and Kagen Despain, Intern to Commissioner O'Rielly; and Nirali Patel, Wireline Advisor to Chairman Pai to discuss the above-captioned proceeding. On December 6, 2018, the Twilio representatives above and Emily Emery, Twilio Director of Government Affairs, met with Umair Javed, Legal Advisor to Commissioner Rosenworcel.

Twilio explained that it offers a cloud communications service that allows software developers to embed voice, text, chat, and video into web and mobile applications. Since its founding in 2008, Twilio has grown to a company of more than 1,200 employees, with offices in Europe, Asia, and Latin America, in addition to the United States. Today, Twilio helps more than 60,000 customers, from small businesses to the world's largest multinational companies, in industries including financial services, manufacturing, retail, and many more reinvent how they engage with their customers.

We explained that the company is not fairly described in the draft item. In particular, certain language in the draft item describes Twilio's services inaccurately, and we asked for these characterizations to be corrected. In particular, we discussed the wide array of services Twilio provides to large enterprise customers, small businesses, and nonprofit organizations, including the ability to send wanted messaging communications to consumers, and the efforts undertaken to prevent illegal spoofing and spam. Twilio described its spam monitoring and detection efforts that help to prevent unwanted communications; and as the company grows, so does Twilio's investment to keep messaging channels clear. In addition, we described how Twilio enables companies, such as Nomorobo, to combat spam. To address its concern, Twilio suggested several minor edits to the draft order as attached. These proposed edits do not affect the analysis or conclusion reflected in the draft order.

Twilio also expressed its eagerness to work with the Commission to develop policies for all communications technologies to ensure consumers receive all forms of wanted communication, and develop solutions to address unwanted communications issues faced by all parties, including providers, carriers, developers, and consumers.

Pursuant to the Commission's rules, this notice is being filed in the above-referenced dockets for inclusion in the public record. Please contact me should you have any questions.

Sincerely,

/s/

Rebecca Murphy Thompson
Head, Communications Policy
Global Public Policy and Government Affairs

Twilio Inc.

cc: Umair Javed
Erin McGrath
Nirali Patel
Jamie Susskind
Kegan Despain

Proposed Edits to Wireless Messaging Service Declaratory Ruling

2. In this Declaratory Ruling, we find that two forms of wireless messaging, Short Message Service (SMS) and Multimedia Messaging Service (MMS), are information services, not telecommunications services under the Communications Act, and that they are not commercial mobile services, nor their functional equivalent. ~~In so doing, we deny the requests of Twilio³ and other mass texting companies who seek to leverage the common carriage of Title II to stop wireless providers from helping consumers by incorporating robocall blocking, anti-spoofing measures, and other anti-spam features into their offerings.~~ This decision removes regulatory uncertainty, empowers providers to continue protecting consumers from unwanted text messages, and should foster further innovation and investment in messaging services.

14. On August 28, 2015, Twilio, ~~a provider of mass texting and spoofing services,~~⁴³ filed a Petition for Expedited Declaratory Ruling in which it also asked the Commission to declare that messaging services are telecommunications services and commercial mobile services subject to common carrier regulation under Title II of the Act. ⁴⁴ Twilio asserts that such a ruling is necessary to prohibit wireless providers' "unfettered" blocking of text messages, among other practices.⁴⁵

~~43 See, e.g., Simon van Zuylen-Wood, How robo-callers outwitted the government and completely wrecked the Do Not Call list, The Washington Post (Jan. 11, 2016), https://www.washingtonpost.com/lifestyle/magazine/how-robocall-moguls-outwitted-the-government-and-completely-wrecked-the-do-not-call-list/2018/01/09/52e769b6-df7a11e7-bbd0-9dfb2e37492a_story.html ("A few months ago, I told a friend in Boston I was writing about the robo-call epidemic. . . . I decided to spam him. There is a software platform called Twilio that allows companies, or anyone, really, to send out phone calls and text messages from a random number.").~~

Footnotes

43. In the absence of a Commission assertion of Title II regulation, wireless providers have employed effective methods to protect consumers from unwanted messages and thereby make wireless messaging a trusted and reliable form of communication for millions of Americans. ¹³⁵ We reject the request of Twilio ~~and other providers of mass-texting services~~ to upend this status quo by classifying SMS and MMS as telecommunications services subject to common carriage obligations under Title II. ¹³⁶ Applying such regulation, or only non-discrimination obligations, to SMS and MMS, either directly or through an exercise of ancillary jurisdiction, would inhibit wireless providers' ability to continue protecting consumers from unwanted messages. In particular, in the context of voice service, under Title II, the Commission has generally found call blocking by providers to be unlawful, and typically permits it only in specific, well-defined circumstances. ¹³⁷ The record shows that, as a result, wireless providers would be limited in their efforts to prevent spam and unwanted messages from reaching end users under Title II regulation, and consequently, consumers would be bombarded with unwanted text messages.